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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

'07 MJ 8941

UNITED STATES OF AMERICA, Plaintiff, v. James Michael DUKE (1), Alicia Nicole DUKE (2), Defendants.	MAGISTRATE CASE No: COMPLAINT FOR VIOLATION OF 8 U.S.C. § 1324(a)(2)(B)(iii) Bringing In Illegal Aliens Without Presentation (Felony) 18 U.S.C. § 2 Aiding & Abetting

The undersigned complainant, being duly sworn, states:

That on November 20, 2007, within the Southern District of California, defendant James Michael DUKE and Alicia Nicole DUKE, with the intent to violate immigration laws of the United States, knowing and in reckless disregard of the fact that one alien, namely, Faustino JIMENEZ De La Cruz, had not received prior official authorization to come to, enter and remain in the United States, did bring to the United States said alien and upon arrival did not bring and present said alien immediately to a Customs Border Protection Officer at the designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii) and Title 18 United States Code, Section 2 Aiding and Abetting.

And the complainant states that this complaint is based on the attached Statement of facts, which is incorporated herein by reference.

Izabel Figueroa, CBP
Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 21st DAY OF NOVEMBER 2007.

PETER C. LEWIS
U.S. MAGISTRATE JUDGE

UNITED STATES OF AMERICA
v.
James Michael DUKE (1)
Alicia Nicole DUKE (2)

STATEMENT OF FACTS

The complainant states that this complaint is based upon the reports of the apprehending officers and the investigation conducted by United States Customs & Border Protection Enforcement Officer Gustavo Barreto.

On November 20, 2007, at approximately 02:35 A.M., driver, James Michael DUKE and passenger Alicia Nicole DUKE arrived at the Calexico, California, West Port of Entry, in a green 1994 Mercury Villager.

During the primary inspection, James Michael DUKE gave a negative Customs declaration to the primary United States Customs and Border Protection Officer (CBPO) Javier Martinez. CBPO Martinez stated that he noticed James Michael DUKE was carrying no luggage. CBPO Martinez noticed that James Michael DUKE was very talkative. CBPO Martinez tapped the side panel of the vehicle and received a hard solid sound. At that time CBPO Martinez opted to escort the vehicle to the vehicle secondary lot.

In secondary inspection United States Customs and Border Protection Officer(CBPO) Jesus Esparza approached James Michael DUKE in which he received a negative Customs declaration. CBPO Esparza proceeded to conduct his inspection, and removed an ashtray that was on the rear driver's side of the vehicle. CBPO Esparza noticed what appeared to be black jeans. CBPO Fsparza realized that he had discovered an undocumented alien, later identified as Faustino JIMENEZ De La Cruz. Faustino JIMENEZ De La Cruz was removed from the vehicle. Faustino JIMENEZ De La Cruz, and James Michael DUKE and Alicia Nicole Duke were taken to the Port Enforcement Team for further disposition.

James Michael Duke and Alicia Nicole Duke were placed under arrest and advised of their rights per Miranda in the English language by United States Customs and Border Protection Enforcement Officer (CBPOE) Gustavo Barreto and witnessed by CBPOE Izabel Figueroa. James Michael DUKE and Alicia Nicole DUKE stated that they understood their rights and would answer questions without an attorney present.

James Michael DUKE admitted he was aware the vehicle he was driving had a person concealed on the side panel of the vehicle. James Michael DUKE stated he was approached by a person while he was in a homeless shelter in San Diego. James Michael DUKE stated that the person asked him if he wanted to bring a vehicle across the border into the United States. James Michael DUKE stated that he agreed and that he was going to pay some unknown amount to bring the vehicle into the United States. James Michael DUKE also stated he was going to drop off the undocumented alien a few blocks after he crossed the border into Calexico, CA.

Alicia Nicole DUKE stated that she and her husband James Michael Duke were approached by a lady while they were in a homeless shelter in San Diego. Alicia Nicole DUKE stated that the lady offered her and her husband $700 to cross a vehicle in the United States from Mexico. Alicia Nicole DUKE stated she and her husband had agreed to cross the vehicle. Alicia Nicole DUKE also stated that they were going to drop off the vehicle a few blocks after crossing into the United States.

Material Witness Faustino JIMENEZ De La Cruz stated that he is a citizen and national of Mexico with no legal entry documents to enter, reside or pass through the United States. JIMENEZ De La Cruz stated that he was approached by a man at the Mexicali Bus Depot. JIMENEZ De La Cruz stated that the man offered to cross him into the United States for $4,000.00. JIMENEZ De La Cruz agreed and was taken to a Motel in Mexicali were he was to be placed inside the vehicle. JIMENEZ De La Cruz stated he was going to pay $4000 to be crossed into the United States and that his final destination was to be Los Angeles, CA were he was to seek employment and resume residence of five years. When presented with a photo line-up JIMENEZ De La Cruz was unable to identify James Michael DUKE and Alicia Nicole DUKE.

Material Witness:

Name	Country of Birth
Faustino JIMENEZ De La Cruz	MEXICO

Further, the complainant states that he believes said alien is a citizen of a country other than the United States; that said alien has admitted that he is deportable; that his testimony is material, that it is impracticable to secure his attendance at the trial by subpoena; and he is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.